

Adopted	Rejected
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## COMMITTEE REPORT

YES:	13
NO:	0

### MR. SPEAKER:

*Your Committee on Courts and Criminal Code, to which was referred Senate Bill 311, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1       Page 1, between the enacting clause and line 1, begin a new
- 2       paragraph and insert:
- 3       "SECTION 1. IC 5-2-5-1, AS AMENDED BY P.L.1-2003,
- 4       SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5       JULY 1, 2003]: Sec. 1. The following definitions apply throughout this
- 6       chapter:
- 7       (1) "Limited criminal history" means information with respect to
- 8       any arrest criminal charge, which must include a disposition.
- 9       However, information about any arrest or criminal charge which
- 10      occurred less than one (1) year before the date of a request shall
- 11      be considered a limited criminal history even if no disposition has
- 12      been entered.
- 13      (2) "Bias crime" means an offense in which the person who
- 14      committed the offense knowingly or intentionally:
- 15          (A) selected the person who was injured; or
- 16          (B) damaged or otherwise affected property;

1 by the offense because of the color, creed, disability, national  
2 origin, race, religion, or sexual orientation of the injured person  
3 or of the owner or occupant of the affected property or because  
4 the injured person or owner or occupant of the affected property  
5 was associated with any other recognizable group or affiliation.

6 (3) "Care" means the provision of care, treatment, education,  
7 training, instruction, supervision, or recreation to children less  
8 than eighteen (18) years of age.

9 (4) "Council" means the security and privacy council created  
10 under section 11 of this chapter.

11 (5) "Criminal history data" means information collected by  
12 criminal justice agencies, the United States Department of Justice  
13 for the department's information system, or individuals. The term  
14 consists of the following:

15 (A) Identifiable descriptions and notations of arrests,  
16 indictments, informations, or other formal criminal charges.

17 (B) Information regarding a sex and violent offender (as  
18 defined in IC 5-2-12-4) obtained through sex and violent  
19 offender registration under IC 5-2-12.

20 (C) Any disposition, including sentencing, and correctional  
21 system intake, transfer, and release.

22 (6) "Certificated employee" has the meaning set forth in  
23 IC 20-7.5-1-2.

24 (7) "Criminal justice agency" means any agency or department of  
25 any level of government whose principal function is the  
26 apprehension, prosecution, adjudication, incarceration, probation,  
27 rehabilitation, or representation of criminal offenders, the location  
28 of parents with child support obligations under 42 U.S.C. 653, the  
29 licensing and regulating of riverboat gambling operations, or the  
30 licensing and regulating of pari-mutuel horse racing operations.  
31 The term includes the office of the attorney general. The term  
32 includes the Medicaid fraud control unit for the purpose of  
33 investigating offenses involving Medicaid. The term includes a  
34 nongovernmental entity that performs as its principal function the:

35 (A) apprehension, prosecution, adjudication, incarceration, or  
36 rehabilitation of criminal offenders;

37 (B) location of parents with child support obligations under 42  
38 U.S.C. 653;

- 1 (C) licensing and regulating of riverboat gambling operations;  
 2 or  
 3 (D) licensing and regulating of pari-mutuel horse racing  
 4 operations;  
 5 under a contract with an agency or department of any level of  
 6 government.  
 7 (8) "Department" means the state police department.  
 8 (9) "Disposition" means information disclosing that criminal  
 9 proceedings have been concluded or indefinitely postponed.  
 10 (10) "Inspection" means visual perusal and includes the right to  
 11 make memoranda abstracts of the information.  
 12 (11) "Institute" means the Indiana criminal justice institute  
 13 established under IC 5-2-6.  
 14 (12) "Law enforcement agency" means an agency or a department  
 15 of any level of government whose principal function is the  
 16 apprehension of criminal offenders. The term includes the office  
 17 of the attorney general.  
 18 (13) "National criminal history background check" means the  
 19 criminal history record system maintained by the Federal Bureau  
 20 of Investigation based on fingerprint identification or any other  
 21 method of positive identification.  
 22 (14) "No contact order" means an order that prohibits a person  
 23 from having direct or indirect contact with another person and  
 24 that is issued under:  
 25 (A) IC 31-32-13;  
 26 (B) IC 31-34-17;  
 27 (C) IC 31-34-20;  
 28 (D) IC 31-37-16;  
 29 (E) IC 31-37-19-1;  
 30 (F) IC 31-37-19-6;  
 31 (G) IC 33-14-1-7;  
 32 (H) IC 35-33-8-3.2; or  
 33 (I) IC 35-38-2-2.3.  
 34 (15) "Noncertificated employee" has the meaning set forth in  
 35 IC 20-7.5-1-2.  
 36 (16) "Protective order" has the meaning set forth in IC 5-2-9-2.1.  
 37 The term includes a foreign protection order (as defined in  
 38 IC 34-6-2-48.5).

(17) "Qualified entity" means a business or an organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care or care placement services, including a business or an organization that licenses or certifies others to provide care or care placement services.

(18) "Release" means the furnishing of a copy, or an edited copy, of criminal history data.

(19) "Reportable offenses" means all felonies and those ~~Class A~~ misdemeanors which the superintendent may designate.

(20) "Request" means the asking for release or inspection of a limited criminal history by noncriminal justice organizations or individuals in a manner which:

(A) reasonably ensures the identification of the subject of the inquiry; and

(B) contains a statement of the purpose for which the information is requested.

(21) "School corporation" has the meaning set forth in IC 20-10.1-1-1.

(22) "Special education cooperative" has the meaning set forth in IC 20-1-6-20.

(23) "Unidentified person" means a deceased or mentally incapacitated person whose identity is unknown.

(24) "Workplace violence restraining order" means an order issued under IC 34-26-6."

Page 2, after line 9, begin a new paragraph and insert:

"SECTION 3. IC 5-2-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) For each person arrested and charged by information or indictment with a ~~felony or with a Class A misdemeanor~~ **reportable offense (as defined in IC 5-2-5-1)** there shall be filed with the court having jurisdiction over the case:

(1) a fingerprint sample taken from the arrested person; and

(2) an affidavit, attached to or as an integral part of the fingerprint sample, from an employee of the law enforcement agency effecting the arrest that identifies the sample as taken from the arrested person.

(b) The failure to file a fingerprint sample or an affidavit under subsection (a) is not a ground for the dismissal of a criminal action or the continuance of a criminal action."

- 1       Renumber all SECTIONS consecutively.  
          (Reference is to SB 311 as printed January 24, 2003.)

**and when so amended that said bill do pass.**

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Representative Weinzapfel